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APPLICATION NO.	F	ILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/671,846		09/25/2003	Eugene George Olczak	133074-1	8697	
22428	7590	10/17/2006		EXAMINER		
FOLEY A	ND LAR	DNER LLP	CHEVALIER,	CHEVALIER, ALICIA ANN		
SUITE 500 3000 K STR	REET NW			ART UNIT	PAPER NUMBER	
• • • • • • • • • • • • • • • • • • • •	WASHINGTON, DC 20007			1772		
				DATE MAILED: 10/17/200	DATE MAILED: 10/17/2006	

Please find below and/or attached an Office communication concerning this application or proceeding.

## Advisory Action Before the Filing of an Appeal Brief

Application No.	Applicant(s)		
10/671,846	OLCZAK ET AL.		
Examiner	Art Unit		
Alicia Chevalier	1772		

non-allowable claim(s).  To purposes of appeal, the proposed amendment(s): a)   will not be entered, or b)   will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  The status of the claim(s) is (or will be) as follows: Claim(s) allowed: none. Claim(s) objected to: none. Claim(s) rejected: 1-13 and 29-32. Claim(s) rejected: 1-13 and 29-32. Claim(s) withdrawn from consideration: none.  AFFIDAVIT OR OTHER EVIDENCE  B.   The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  D.   The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.  REQUEST FOR RECONSIDERATION/OTHER  The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see continuation sheet.			Alicia Chevalier	1772	
HE REPLY FILED 29 September 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.  The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies; (f) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCCE) in compliance with 37 CFR 1.114. The reply must be filled within one of the following time periods:  The period for reply expires £-months from the mailing date of the final rejection.  The period for reply expires 9. The mailing date of the final rejection.  The period for reply expires 9. The mailing date of the final rejection.  The period for reply expires 9. The statutory period for reply expire a test than SN MONTHS form the mailing date of the final rejection, whichever is later. In no evert, however, will be statutory period for reply expire 9. The statutory period for reply expires 9. The statutory period 9. The	The MAILING	DATE of this communication appe	ars on the cover sheet with the d	orrespondence add	ress
. ☐ The rophy was filted after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandomment of this application, applicant must timely file one or the following replies: (f) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:  a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:  a ☐ The period for reply exples on: (1) the mailing date of the final rejection.  b ☐ The period for reply exples on: (1) the mailing date of the final rejection.  Examiner Note: (if box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FIRST REPLY EVENT AND MONTHS OF THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE PRIVAL REPLIES FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE PRIVAL REPLIES FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE PRIVAL REPLIES FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE PRIVAL REPLIES FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE PRIVAL REPLIES FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE PRIVAL REPLIES FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE PRIVAL REPLIES FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE PRIVAL REPLIES FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE PRIVAL REPLIES FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE PRIVAL REPLIES FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE PRIVAL REPLIES FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE					
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TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).  Kitensions of time may be obtained under 37 CFR 1.138(a). The date on which the petition under 37 CFR 1.138(a) and the appropriate extension fee lawe been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee lawe been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee mader 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originate in the final original filed on a consideration of the consideration of the final rejection, even if timely filed, any reduce any earned patent term adjustment. See 37 CFR 1.704(b).  SOTICE OF APPEAL  1. The Notice of Appeal was filed on A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal was filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).  MENDMENTS  2. The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because (a) They raise new issues that would require further consideration and/or search (see NOTE below);  (b) They raise the issue of new matter (see NOTE below);  (c) They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  (d) They present additional claims without canceling a corresponding number of finally rejected claims.  NOTE: see continuation sheet. (See 37 CFR 1.116 and 41.33(a)).  1. The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  3. Mewly proposed or amended claim(s) would be allowable if submitted in a separate, timely filed amendment cancelling the non-allowable claim(s).  3. Note: see continuation sheet. (See 37 CFR 1.116(a) would be allowable of submitted in a separate	a) The period for rep b) The period for rep no event, however	ly expires on: (1) the mailing date of this A r, will the statutory period for reply expire la	dvisory Action, or (2) the date set forth ater than SIX MONTHS from the mailing	g date of the final rejecti	on.
The Notice of Appeal was filed on A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).	TWO MONTHS C Extensions of time may be of have been filed is the date fo under 37 CFR 1.17(a) is calc set forth in (b) above, if check may reduce any earned pate	OF THE FINAL REJECTION. See MPEP 70 btained under 37 CFR 1.136(a). The date or purposes of determining the period of extending the from: (1) the expiration date of the sked. Any reply received by the Office later	06.07(f). on which the petition under 37 CFR 1.1 tension and the corresponding amount shortened statutory period for reply orig than three months after the mailing da	136(a) and the appropria of the fee. The appropr inally set in the final Offi	ate extension fee iate extension fee ice action; or (2) as
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			(PTO/SB/08) Paper No(s)		

Application/Control Number: 10/671,846

Art Unit: 1772

## **Continuation Sheet**

Continuation of 3. Note: New independent claims 33-38 raise(s) new issues requiring a novel search and further consideration.

Continuation of 11. because: Applicant's arguments are drawn to a proposed claim amendment which is not being entered; thus, the arguments are not commensurate in scope with the claims.

## Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia Chevalier whose telephone number is (571) 272-1490.

The examiner can normally be reached on Monday through Friday from 8:00 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon, can be reached on (571) 272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ac 10/12/06

ALICIA CHEVALIER